

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARKY’S MARTIAL ARTS, INC. d/b/a
KILLEARN LAKES TAEKWONDO,

Plaintiff,

-against-

FC ONLINE MARKETING, INC., d/b/a
FCOM,

Defendant.

19cv03363 (ALC) (DF)

ORDER

DEBRA FREEMAN, United States Magistrate Judge:

Currently before this Court is a letter motion by plaintiff Marky’s Martial Arts, Inc., d/b/a Killearn Lakes Taekwondo (“Plaintiff”) (Dkt. 28), requesting a conference with respect to the damages inquest that remains pending before this Court, upon the default of defendant FC Online Marketing, Inc., d/b/a FCOM (“Defendant”). Prior to Plaintiff’s filing of this letter motion, this Court was in the process of preparing a report and recommendation to the Honorable Andrew L. Carter, Jr., U.S.D.J., recommending that no damages, fees, or costs be awarded in connection with Defendant’s default, on the grounds that Plaintiff’s inquest submissions, as they currently stand, are wholly inadequate to support any award. In short, despite the fact that this Court *twice* issued Orders expressly directing Plaintiff to submit appropriate evidence supporting both its damages claims and its request for attorneys’ fees and costs (*see* Dkts. 21, 24), Plaintiff has made only confusing and completely unsupported statements regarding its damages, and its proffered documentation of attorneys’ fees and costs was untimely submitted, unauthenticated, and deficient. Yet, despite all of this, as Plaintiff has now asked, in its current letter motion, “whether this Court needs additional information from Plaintiff” with respect to its application for damages, this Court will grant Plaintiff’s motion for a

conference and afford Plaintiff one final opportunity to be heard on the matter, before issuing its report and recommendation to Judge Carter.

Accordingly, it is hereby ORDERED that:


1. Plaintiff's motion for a conference with respect to the pending damages inquest (Dkt. 28) is granted. This Court will hold a telephone conference in this matter, with respect to the damages inquest, on July 13, 2021, at 10:00 a.m. For the conference, the parties should call the following Toll-Free Number: (877) 411-9748, and use Access Code: 9612281.

2. Plaintiff is directed to serve a copy of this Order on Defendant by a means reasonably calculated to reach Defendant, and to file proof of such service on the Docket of this action.

3. This Court notes that the memorandum of law that Plaintiff filed in support of its claims for damages upon Defendant's default (Dkt. 25) was improperly filed as a "motion" for a default judgment (*see* Dkt.). Further, as Plaintiff previously filed a Notice of Motion for a default judgment (Dkt. 12) – following which Judge Carter issued an Order To Show Cause as to why a default judgment should not be entered against Defendant (Dkt. 14) and proceeded to find Defendant in default when it failed to respond (*see* Dkt. 18) – there is no need for Plaintiff, at this time, to file another motion for a default judgment. Accordingly, the Clerk of Court is directed not only to close Dkt. 28 on the Docket of this action in accordance with paragraph 1, above, but also to terminate Dkt. 25.

Dated: New York, New York
June 22, 2021

SO ORDERED



DEBRA FREEMAN
United States District Judge

Copies to:

Plaintiff's counsel (via ECF)